

or neglect to quit such possession, upon complaint thereof to a justice of the peace, said justice shall proceed to hear, try, and determine the same in like manner as in cases of forcible entry and detainer, and issue a writ of restitution accordingly: *Provided* always, That the justice shall have no power to assess a fine on the party complained of.

Proviso.

Cases to which the preceding section is not to extend.

SEC. 9. That the preceding section shall not extend to any person who has or shall have continued in possession three years, after the termination of the time for which the premises were demised or let to him, or her, or those under whom he or she claims; or to any person who continues in possession three years, quietly and peaceably, by disseizure, anything therein contained to the contrary notwithstanding.

Action of trespass.

SEC. 10. That the complainant shall be entitled to an action of trespass against the person complained of, and who shall be found guilty on the trial, and may recover treble damages from the time of notice given to quit the premises, and until that time damages only.

Party aggrieved may appeal to district court.

SEC. 11. If either party shall feel aggrieved by the verdict of the jury, or the decision of the question, on any trial had under this act, such party, within twenty days thereof, may have an appeal to the district court, to be obtained in the same manner, and tried in the same way, as appeals from justices of the peace in other cases: *Provided*, however, That in no case shall an appeal operate as a *supersedeas* to any writ of restitution that may be issued by said justice; and the district court, on giving judgment for the appellant, shall award a writ of restitution, and execution for costs, including the costs before the justice; and if judgment be for the defendant, he shall recover costs in like manner, and have execution for the same.

Proviso.

APPROVED, January 25, 1839.

GAMING.

AN ACT to prevent and punish gambling.

Gambling debts collectable.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That all promises, notes, bills, bonds, covenants, contracts, agreements, judgments, mortgages, or other securities or conveyances made, given, granted, or entered into,

or executed by any person or persons whomsoever, for the whole or any part, or shall be for any money, property, or any valuable thing won by gambling or playing at cards, dice, or other games of hazard whatsoever, or by betting on the side or hand or hands with any person or persons playing or gaming as aforesaid, or for the reimbursing or paying any money or other valuable thing lent or advanced at the time of such playing, knowing the intention of the borrower so to bet or hazard the same, shall be good and valid in all courts of law and equity in this Territory, and collectable as provided in the second section of this act.

SEC. 2. If any person who shall at any time by playing or betting at cards, dice, or any other game or games of hazard whatsoever, or by betting on the side or hand of such as do bet or game, lose any money or other valuable thing, and shall pay or deliver the same, it shall be lawful for any person or persons to sue for and recover, in the name of the board of county commissioners of the county in which such money or other valuable thing was lost, for the use of such county from the respective winner or winners with costs of suit in any court having competent jurisdiction, in which action it shall be sufficient for the plaintiff to declare generally as in actions of debt or assumpsit for money had and received by the defendant to the use of the plaintiff, or as in actions of detinue or trover upon a supposed finding and detaining or converting the money or property of the plaintiff to the use of the defendant, whereby an action hath accrued to the plaintiff according to the form of this act, without setting forth the special matter, and the testimony of the person losing in the absence of other testimony, shall be received in any action brought as aforesaid.

Money, &c., paid or delivered may be recovered for the use of the county.

Testimony of losing party to be received.

SEC. 3. Every person who shall set up or keep any table or gambling device commonly called faro bank, E. O., roulette, equality or any kind of gambling device adapted, devised and designed for the purpose of playing any game of chance for money or property, and shall induce, entice or permit any person to bet or play at or upon any such gaming table or gambling device, or at or upon any game played at or by any means of such table or gambling device, or on the side or against the keeper thereof, shall on conviction be adjudged guilty of a misdemeanor and punished by fine not exceeding five hundred dollars and not

Keepers of gaming tables, &c., punished by fine or imprisonment.

less than twenty-five dollars, or by imprisonment not exceeding three months nor less than ten days, or by both such fine and imprisonment.

Fine to be imposed on persons who bet or play.

SEC. 4. Every person who shall bet any money or property or play at or upon any gaming table, bank or device prohibited by the preceding section or who shall bet upon or play at any game played at or by means of any such gaming table or bank or other device or on the side or against the keeper thereof, shall on conviction thereof be adjudged guilty of a misdemeanor and punished by fine not exceeding five hundred dollars and not less than ten dollars.

Persons permitting gaming table, &c., to be set up or used, how punished.

SEC. 5. Every person who shall suffer or permit any gaming table, bank or device prohibited by the preceding provisions to be set up or used for the purpose of gaming in any house, building, shed, lot, or out house, yard, garden, out lot, or other premises to him belonging or by him occupied or of which he hath at the time the possession or control, shall on conviction be adjudged guilty of a misdemeanor and punished by fine not exceeding five hundred dollars nor less than one hundred dollars for every such offence or by imprisonment not exceeding three months nor less than ten days, or by both such fine and imprisonment at the discretion of the court.

Keeping a gaming house.

Fine.

Imprisonment.

SEC. 6. Every person who shall set up or keep a gaming house, shall on conviction, be adjudged guilty of a misdemeanor and be punished by a fine not exceeding five hundred dollars nor less than two hundred dollars, or by imprisonment not exceeding ninety days nor less than ten days, or by both such fine and imprisonment at the discretion of the court.

Leasing any building for gaming purposes.

Fine.

SEC. 7. Every person who shall knowingly lease or let to another any house or other building for the purpose of setting up or keeping therein any of the gaming tables, banks or other devices prohibited by the preceding provisions or for the purpose of being used or kept as a gaming house, shall on conviction be adjudged guilty of a misdemeanor and punished by fine not exceeding two hundred and fifty dollars and not less than fifty dollars.

Who to be deemed keepers of gaming tables and gaming houses.

SEC. 8. Every person appearing or acting as master or mistress or having the care, use or management for the time being of any prohibited gaming table, bank or device, shall be deemed a keeper thereof, and every person who shall appear or act as master or mistress or have the care, use or management of any house or building in which any gaming table,

bank or device is set up or kept, or of any house in which any gaming table, bank or device is in any way used, shall be deemed a keeper thereof.

SEC. 9. Whenever any lessee of any house or building shall be convicted of knowingly suffering or permitting any prohibited gaming table, bank or device to be set up, kept or used therein for the purpose of gaming or common gaming house, the lease or agreement for letting such house or building shall become void and the lessor may enter upon the premises so let and shall have the same remedies for the recovery thereof as in the case of a tenant holding over his term.

SEC. 10. No person shall be incapacitated or excluded from testifying touching any offence committed by another against any of the foregoing provisions relating to gaming by reason of his having bet or played at the prohibited games or gaming devices, but the testimony which may be given by any person in such case shall in no case be used against such witness.

SEC. 11. If any justice of the peace have knowledge or shall be informed satisfactorily that there is any prohibited gaming table or gambling device kept or used within his county, it shall be his duty forthwith to issue his warrant directed to the sheriff or any constable of the county to seize and bring before said justice such gaming table or other device.

SEC. 12. The officer who shall be charged with the execution of any warrant specified in the above section shall have power if necessary to break open doors for the purpose of executing the same and for that purpose may summon to his aid the power of the county.

SEC. 13. It shall be the duty of every justice of the peace before whom any such gaming table or other device shall be brought, to cause the same to be publicly destroyed.

SEC. 14. The presiding judge of each district at each and every court shall give this act in special charge to the grand jury.

SEC. 15. It shall be the duty of all sheriffs, deputy sheriffs, justices of the peace and constables in their proper counties, and mayors, aldermen and marshals of cities to complain and give information of any breaches of this act and if any of the above named officers shall fail, neglect or refuse to complain and give information of any and every breach of this act

When lease to be void.

Accomplices not incapacitated as witnesses.

Gaming tables, &c., to be seized.

Authority to break open doors.

Gaming tables and other devices to be destroyed.

This act to be given in charge to grand jury.

Duty of officers touching any breaches of this act.

Forfeiture of office and fine for non-performance of this duty.

that shall come to their knowledge he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall forfeit his office and be fined in any sum not exceeding one hundred dollars, to be recovered by action of debt with costs before any court having jurisdiction thereof for the use of the county in which such suit is brought.

This act to take effect from and after its passage.
APPROVED, December 25, 1838.

HALF BREED TRACT.

AN ACT to provide for the collection of Taxes off the Half Breed Lands, in Lee county.

County com. to furnish assessment book of the Half Breed Lands.

Duties of the assessor.

Clerk to make list of lands, and deliver same to sheriff.

Authority to sheriff to sell lands not claimed, &c.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That it shall be the duty of the board of county commissioners, for the county of Lee, at their April term, to make, or cause to be made, a complete assessment book of the Half Breed Lands in said county, and furnish the assessor with the same, whose duty it shall be to assess and enter the same in his assessment book, by quarter sections, lots, or parcels, as the same may be claimed.

SEC. 2. That it shall be the duty of the assessor to take down the names of all persons who are residing on, or claiming, any portion of said land, together with the numbers, and particular share, or shares, or parts of shares, as the claimants or owners may give in, and make an entry of the same in his assessment book, noting as near as may be the number of acres claimed, and the amount of tax required to be paid on the same, and make a return of his doings to the clerk of the board of county commissioners of said county.

SEC. 3. That it shall be the duty of said clerk, forthwith, on the receipt of the same, to make out a complete list of all the lands that have been given in, and also a list of all that have not been claimed or given in to the assessor, and give the said lists to the sheriff of said county, for the collection of the taxes on the same.

SEC. 4. That the said sheriff shall proceed to collect the taxes so assessed and unpaid; and if it shall appear that any of said lands have not been claimed and given in to the assessor, the said sheriff shall